

### **REMARKS**

The last Office Action, which has been made final, and the comments of the Examiner have been carefully considered. The claims have been amended in a sincere effort to define more clearly and more specifically features of applicant's invention which distinguish over the art of record.

The Examiner's comments concerning the claims and the arguments which applicant submitted in the Response dated September 7, 2004, are acknowledged and gratefully appreciated. It is respectfully urged that the claims, as now amended, patentably distinguish over the references of record and are allowable. Also, certain claims have been cancelled to place this application in proper form for appeal and/or allowance. No new matter has been added by the amendments to the claims.

The claims which are pending in the case are the following:

Claim 7, which is now in independent form;

Claims 8 and 9, in their original form, which depend from Claim 7;

Claim 10, which is now in independent form;

Claim 16, which is now in independent form;

Claims 17 and 18, which are in their original form and which depend from Claim 16;

Claim 19, which is now in independent form;

Claims 21-23, which have been amended so that they now depend from amended Claim 7, now in independent form;

Claim 26, which has been previously presented in independent form;

Claim 34, which has been amended to depend from amended Claim 19, now in independent form; and

Claim 40, which has been amended to depend from Claim 7, which is now in independent form.

Claims 7, 8, 9, 10, 21-23, 26 and 40 define applicant's system for managing licenses for protected software on a communication network. Claims 16-19 and 34 define applicant's method for managing licenses for protected software on a communication network.

With respect to independent system Claims 7 and 16, the Examiner cited the Bains et al. patent, and asserts that, at column 7, lines 43-46 of the patent, it discloses using a "ping" to determine if a server is still functioning properly, and that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the disclosed inventions of the Wyman, Ohran et al., and Badinovatz et al. patents with the invention disclosed in the Bains et al. patent, because using a periodic signal to ensure that a license server is operating properly ensures that usage rights associated with each license is not being fraudulently manipulated.

The rejection of Claims 7 and 16 in view of the Bains et al. patent, in combination with the references mentioned above, is respectfully traverse. It is respectfully urged that the Bains et al. patent, at column 7, lines 43-46, discloses: "the communication module is also responsible for sending a periodic signal (a "ping") to the license server to indicate continued use of a license." Therefore, all that is taught or suggested by the Bains et al. patent is that the "ping" is to indicate continued use of a license.

In contrast, Claims 7 and 16 recite that each client computer that has received an authorization from a particular license server is programmed for determining whether that particular license server is still capable of managing a distribution of allocations to use the protected software. Such is not taught or suggested by the Bains et al. patent, in combination with the remaining references of record. Accordingly, it is respectfully urged that Claims 7 and 16, now placed in independent form, patentably distinguish over the prior art.

Claims 8 and 9 depend from Claim 7 and are respectfully urged to be patentable over the Bains et al. patent, and the remaining references of record for the same reasons submitted with respect to Claim 7.

Also, Claims 17 and 18 depend from Claim 16, now in independent form, and are respectfully urged to patentably distinguish over the Bains et al. patent for the same reasons submitted with respect to Claims 7 and 16.

With respect to Claims 10 and 19, which have been amended herein and placed in independent form, the Examiner, at page 25 of the Office Action, asserts that the Badinovatz et al. patent, at column 8, lines 1-44, discloses using sequence numbers to keep track of messages when a server fails or when a new leader is selected, and that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of the Wyman, Ohran et al., Badinovatz et al. and Novaes patents with the teachings of the Bains et al. patent because, if after determining that the local license server is no longer functional, a new license server must be selected to replace the licensing capabilities, and there must be an assurance that the new server leader has a current list of license data.

It is respectfully urged that Claims 10 and 19, now in independent form, patentably distinguish over the Badinovatz et al. patent and the other references of record and are allowable. More specifically, it is respectfully urged that the Badinovatz et al. patent does not teach or suggest receiving a new redundant license file and a new sequence number which is greater than any sequence number currently stored in the memory of the other license servers in the pool. Rather, the Badinovatz et al. patent discloses the processing node as retrieving a missing message from any of the processing nodes in the processor group, since all of the nodes in the group have received the same message. This limitation found in Claims 10 and 19 are also not found in any of the other references of record cited by the Examiner. Accordingly, it is respectfully urged that independent Claims 10 and 19 patentably distinguish over the references cited by the Examiner and are allowable.

Method Claim 34 has been amended so that it now depends from Claim 19, which is now in independent form. Accordingly, Claim 34, as now amended, is respectfully urged to patentably distinguish over the references of record for the same reasons submitted with respect to Claim 19.

Claims 21 through 23 have now been amended so that they depend from system Claim 7, which is now in independent form. Accordingly, these claims are respectfully urged

Applicant: Mark E. Redding  
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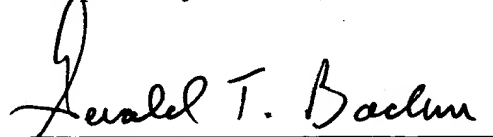
to patentably distinguish over the references of record for the same reasons submitted with now independent Claim 7.

Claim 26, which is in independent form, has been previously presented and has not been amended herein. However, Claim 26 includes the same limitation that is found in Claim 7, that is, that each client computer that has received an authorization from a particular license server is programmed for determining whether that particular license server is still capable of managing a distribution of allocations to use the protected software. Accordingly, it is respectfully urged that Claim 26, which is also in independent form, patentably distinguishes over the references of record and is allowable for the same reasons submitted with respect to Claim 7, now in independent form.

Claim 40 has been amended herein to depend from Claim 7. Accordingly, it is respectfully urged that Claim 40, as now amended, patentably distinguishes over the references of record for the same reasons submitted with respect to Claim 7, now in independent form.

In view of the foregoing amendments and remarks, entry and favorable consideration of the amendments to Claims 7, 10, 16, 19, 21-23, 34 and 40, reconsideration of unamended Claims 8, 9, 17, 18 and 26, and allowance of the application with Claims 7-10, 16-19, 21-23, 26, 34 and 40 are respectfully solicited. If the Examiner has any questions or comments, or suggestions which may expedite an allowance of the application, it is respectfully requested that he contact the undersigned attorney at the telephone number given below.

Respectfully solicited,



Gerald T. Bodner  
Attorney for Applicant  
Registration No. 30,449

BODNER & O'ROURKE, LLP  
425 Broadhollow Road, Suite 108  
Melville, NY 11747  
Telephone: (631) 249-7500  
Facsimile: (631) 249-4508  
GTB:slt